

SALEM COUNTY AGRICULTURE DEVELOPMENT BOARD
IN THE MATTER OF
WYSHINSKI RIGHT-TO-FARM CASE
BLOCK 58, Lot 5
TOWNSHIP OF MANNINGTON

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq., and the State Agriculture Development Committee's (SADC) regulations, N.J.A.C. 2:76-10(a), any person aggrieved by the operation of a commercial farm shall file a complaint with a County Agriculture Development Board (CADB) or with the SADC in counties where no CADB exists; and

WHEREAS, on May 20, 2011, a complaint with supporting documentation was submitted to the Salem County Agriculture Development Board (SCADB) by William Horner, Esq. on behalf of the Township of Mannington, alleging that the Wyshinski Farm (Block 58, Lot 5) located at 61 Acton Station Road, Salem, NJ, was being used as a construction yard and depot for the storage, maintenance, preparation and dispatch of commercial construction vehicles in violation of the township's land development ordinance; and

WHEREAS, in response to complaints from neighboring property owners regarding the Wyshinski Farm property being used as a construction yard and depot for the storage, maintenance, preparation and dispatch of commercial construction vehicles, equipment and materials, Hubert Layton, Mannington zoning officer, notified the owner of the Wyshinski Farm of the following violations: erecting a fence around the property; and areas on the property being used as a construction yard, thus requiring the owner to obtain site plan approval; and

WHEREAS, the Mannington Township zoning officer's notice of violation against the Wyshinski Farm was being prosecuted in the Carneys Point Township municipal court, but that matter was stayed as a result of the Wyshinski Farm's request for an interpretation by the Mannington Township Planning board; and

WHEREAS, the Mannington planning board, in turn, requested that the case be heard by the SCADB to determine if the Wyshinski Farm is being used for an agricultural purpose or practice; and

WHEREAS, a letter dated May 23, 2011, was sent by the SCADB informing the Wyshinski Farm of the Mannington complaint and advising that the SCADB was required to contact the commercial farm operator and request that it provide evidence that the property upon which disputed activities are being conducted is a "commercial farm" as defined in N.J.S.A 4:1C-3; and

WHEREAS, accompanying the SCADB's letter to the Wyshinski Farm was a copy of the commercial farm certification form to be filled out and returned within 10 days; and

WHEREAS, the commercial farm certification requires the Wyshinski Farm to demonstrate with appropriate written evidence that it has produced agricultural or horticultural products worth \$2,500.00 or more annually on property no less than 5 acres, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964; and

WHEREAS, as of June 9, 2011 the SCADB had not heard or received any information from the Wyshinski Farm; and

WHEREAS, another letter dated June 10, 2011 was sent by the SCADB via regular mail and certified mail, return receipt requested to the Wyshinski Farm serving as a second notification that if the SCADB did not receive the completed commercial farm certification by Friday, June 17, 2011, then the complaint would be dismissed; and

WHEREAS, the Wyshinski Farm did not respond to the second notification sent as set forth in the prior paragraph; and

WHEREAS, this matter was placed on the SCADB's agenda for June 22, 2011, to make a determination regarding Mannington's Right to Farm complaint against the Wyshinski Farm; and

NOW THEREFORE BE IT RESOLVED, that the SCADB hereby determines that since the Wyshinski Farm has made no attempt to complete the commercial farm certification form or to contact SCADB staff, the SCADB can make no determination that the Wyshinski Farm is a "commercial farm" eligible for Right to Farm protection; and

BE IT FURTHER RESOLVED that, based on the foregoing, the Wyshinski Farm is not a "commercial farm" as defined by the Right to Farm Act; and

BE IT FURTHER RESOLVED that, because the Wyshinski Farm does not qualify as a "commercial farm", the SCADB has no jurisdiction over the Mannington complaint, this matter is hereby dismissed and the disputed activities alleged in the complaint remain under the jurisdiction of all other appropriate local, state and/or federal authorities; and

BE IT FURTHER RESOLVED, that the SCADB shall forward a copy of this resolution to the Wyshinski Farm, William Horner, Esq. the Mannington Township planning board, the Carneys Point municipal court, the SADC and any other individuals deemed appropriate by the Board within 30 days of this recommendation; and

BE IT FURTHER RESOLVED that any person aggrieved by this Resolution may appeal to the SADC within 10 days of that person's receipt of this Resolution.

I hereby certify that the above is a true copy of the resolution adopted by the Salem County Agriculture Development Board at their meeting of July 27, 2011.

Andrew T. Buzby, Chairman
Salem County Agriculture Development Board